

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 1425 Broward County  
**SPONSOR(S):** Military & Local Affairs Policy Committee, Porth and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	14 Y, 0 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council		Noriega	Tinker
3)				
4)				
5)				

**SUMMARY ANALYSIS**

This bill creates and establishes the Broward County Office of Inspector General (Office).

The purpose of this Office is to detect misconduct involving abuse, corruption, fraud, waste, inefficiencies, and mismanagement by elected and appointed local government officials and employees, local government agencies and instrumentalities, and contractors and other parties doing business with local governments or receiving local government funds.

The bill provides guidelines for this Office related to the following:

- functions, authority, and powers;
- reports;
- qualifications and selection process;
- removal procedures;
- physical facilities and staff;
- funding;
- code of ethics and ordinance violations; and
- conflict.

This bill is effective upon approval by a majority vote of the electors in a countywide referendum, which would be scheduled in conjunction with the November 2010 general election.

Under the bill, the Broward County Board of Commissioners (Board) is required to schedule a referendum for the continuation of the Office in conjunction with the general election of November 2016, and in accordance with the provisions of law relating to elections currently in force. The Broward County Office of Inspector General Act (Act) may be amended by Special Act of the Legislature.

According to the Economic Impact Statement, this bill will increase public confidence in local government and provide potential savings for local governments by discouraging the execution of fraudulent or mismanaged contracts. The Economic Impact Statement also indicates that the provisions of this bill will result in expenditures of \$200,000 for local fiscal year 2010-11. The projected expenditures for local fiscal year 2011-12 have not been determined.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Chapter 112, Part III,<sup>1</sup> F.S., provides a code of ethics for public officers and employees. This code of ethics includes standards of conduct for public officers, employees of agencies, local government attorneys, and for officers and entities serving as chief administrative officer of political subdivisions. In addition, ch. 112, Part III, F.S., outlines provisions related to voting, public records, forms, penalties, confidentiality, investigative procedures, and judicial review, among other provisions.

Section 112.326, F.S., authorizes the governing body of any political subdivision, by ordinance, to impose additional or more stringent standards of conduct and disclosure than those specified in Part III of ch. 112, F.S.<sup>2</sup> Duval County and Miami-Dade County have created their own Commissions on Ethics.

Miami-Dade County<sup>3</sup> also has an Inspector General (IG)<sup>4</sup> who investigates and processes allegations of violations of federal, state and local laws that create a danger to the public health, safety or welfare or that constitute gross mismanagement, malfeasance, misfeasance, waste of public funds or neglect of duty.<sup>5</sup>

There are approximately 50 IGs currently serving public entities in Florida. Excluding Miami-Dade County, the other 49 IGs serve 29 state agencies, 10 public universities, five water management

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<sup>1</sup> Sections 112.311-122.326, F.S.

<sup>2</sup> See s. 112.324, F.S., and CS/HB 551 (2010).

<sup>3</sup> From the Miami-Dade County Ethics Commission website: <http://www.miamidadeethics.com/> (last viewed on April 6, 2010).

<sup>4</sup> An Inspector General (IG) is generally defined as a type of investigator charged with examining the actions of a government agency, as a general auditor of their operations to ensure compliance with general established policies of the government, to audit the effectiveness of various procedures, or to discover the possibility of misconduct, waste, fraud, theft, or certain types of criminal activity by individuals or groups related to the agency's operation, usually involving some misuse of the organization's funds or credit. There are numerous Offices of Inspector General (OIGs) at the federal, state, and local levels throughout the United States.

<sup>5</sup> See AGO 99-07, issued February 12, 1999.

districts, the Board of Governors, the Florida Housing Finance Corporation, the Governor's Office, the State Courts, and the State Board of Administration.<sup>6</sup>

Palm Beach County adopted an ordinance creating an Office of Inspector General (OIG) on December 15, 2009. On March 25, 2010, the seven-member Inspector General Selection Committee selected the top 12 applicants for the IG post. Two days of interviews are being planned to make the final selection in early May 2010.<sup>7</sup>

Other than Miami-Dade County and Palm Beach County, it does not appear that any unit of Florida local government has established an OIG to serve the public.

### **Effect of the Proposed Changes**

This bill creates and establishes the "Broward County Office of IG Act" (Act), which creates and establishes the Broward County Office of Inspector General (Office).

Broward County local governments, elected and appointed local government officials and employees, local government agencies and instrumentalities, and contractors and other parties doing business with local governments or receiving local government funds are subject to the Act.

Local governments include the Charter Government of Broward County, the Broward County School Board or Broward County School District, any municipality within Broward County, any constitutional officer<sup>8</sup> of Broward County, as provided in Article VIII, s. 1 of the Florida Constitution, or any special district operating solely within Broward County. Currently, there are 31 municipalities<sup>9</sup> and 88 special districts<sup>10</sup> within Broward County meeting these criteria.

### ***Broward County Office of Inspector General***

The purpose of this Office is to detect misconduct involving abuse, corruption, fraud, waste, inefficiencies, and mismanagement by elected and appointed local government officials and employees, local government agencies and instrumentalities, and contractors and other parties doing business with local governments or receiving local government funds.

The Act provides for the IG to be the head of the Office. Also, the organization and administration of the Office must be independent to ensure that no interference or influence external to the Office adversely affects the independence and objectivity of the IG.

### ***Functions, Authority, and Powers of the Office***

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<sup>6</sup> Information obtained from the Florida Inspectors General Expertise System's (FIGES) website at: <http://figes.dcf.state.fl.us/> (last viewed on April 6, 2010).

<sup>7</sup> See [http://www.pbcgov.com/newsroom/0310/03-26-10\\_IG\\_selection.htm](http://www.pbcgov.com/newsroom/0310/03-26-10_IG_selection.htm) (last viewed on April 6, 2010).

<sup>8</sup> The constitutional officers listed in the State Constitution include the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court.

<sup>9</sup> See <http://www.broward.org/Links/Pages/Default.aspx#Cities> (last viewed on April 6, 2010).

<sup>10</sup> See [http://www.floridaspecialdistricts.org/OfficialList/numbr\\_of.cfm](http://www.floridaspecialdistricts.org/OfficialList/numbr_of.cfm) (last viewed on April 6, 2010). Of these 88 special districts, 50 are dependent and 38 are independent. A dependent special district has at least one of the following characteristics: "(a) the membership of its governing body is identical to that of the governing body of a single county or a single municipality; (b) all members of its governing body are appointed by the governing body of a single county or a single municipality; (c) during their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; (d) the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality." § 189.403(2), F.S. An "independent special district" means a special district that is not a dependent special district. § 189.403(3), F.S.

### Complaint Process

The Act provides for the IG to establish a form to receive complaints from identified persons. The complainant is required to include the following statement in his or her complaint:

"under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true,"

followed by the signature of the person making the declaration. The written declaration must be printed or typed at the end of or immediately below the document being verified and above the signature of the person making the declaration.

Verification of the report's contents and submission of the sworn and subscribed statement must be completed before the IG begins his or her investigation. Also, after a complaint meeting these requirements is filed, the IG may:

- make investigations of local government matters and publish the results of such investigations;
- review and audit past, present, and proposed local government programs, accounts, records, contracts, change orders, and transactions; and
- prepare reports and recommendations to the local government based on investigations. All elected and appointed local government officials and employees, local government agencies and instrumentalities, and contractors and other parties doing business with the local government or receiving local government funds are required to fully cooperate with the IG.

When a complaint alleging a criminal violation is filed, or when the IG suspects a criminal violation has occurred in the scope of the investigation, the IG is required to notify the appropriate enforcing agency immediately before continuing his or her investigation.

The IG may receive, review, and investigate any complaints that meet the verification and sworn statement requirements regarding projects, programs, contracts, or transactions funded by Broward County local governments.

The IG may, upon the investigation of a complaint, attend all duly noticed local government meetings relating to the procurement of goods or services and may pose questions and raise concerns consistent with its functions, authority, and powers.

In addition, this Act provides that the IG must investigate complaints received pursuant to s. 112.3188(1), F.S.,<sup>11</sup> and must establish procedures to investigate such complaints.

### Auditing, Reporting, Investigative Powers, and Jurisdiction

The IG may, upon receiving a complaint, conduct audits of, require reports from, and receive full and unrestricted access to the records of:

- the local governments;
- all elected and appointed local government officials and employees; and
- local government departments, divisions, agencies, and instrumentalities.

The IG may also conduct audits of and review documents made or received by persons and entities doing business with local governments or receiving local government funds in conjunction with such transactions with Broward County local governments.

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<sup>11</sup> Section 112.3188(1), F.S., addresses whistleblower complaints.

The Act provides that the IG's jurisdiction must include, but is not limited to, all projects, programs, contracts, or transactions that are funded in whole or in part by Broward County local governments. The IG may contract with outside entities as deemed necessary to perform the functions of that office.

Upon the investigation of a complaint that meets the verification and sworn statement requirements, the IG may audit, investigate, monitor, inspect, and review the operations, activities, performance, and procurement processes, including, but not limited to, establishment of bid specifications; bid submittals; activities of the contractor and its officers, agents, and employees; lobbyists; local government staff; and officials in order to ensure compliance with contract specifications and detect corruption and fraud.

#### Refusal to Obey an IG Request or Interview

In the case of a refusal to obey a request by the IG for documents or for an interview in investigating a complaint, the IG may subpoena witnesses, administer oaths, and require the production of records. Seventy-two hours before serving a subpoena, the IG must provide written notice to the State Attorney and the United States Attorney for the Southern District of Florida. The IG may not interfere with any ongoing criminal investigation or prosecution of the State Attorney or the United States Attorney for the Southern District of Florida.

#### Suspension of Service and Other Activities

When the State Attorney or the United States Attorney for the Southern District of Florida has explicitly notified the IG in writing that the IG's investigation is interfering with an ongoing criminal investigation or prosecution, the IG must suspend service of subpoena, examination of witnesses, or other investigative activities as set forth in the notice.

In cases of refusal to obey a subpoena served to any person, the IG may make application to any Florida circuit court, which will have jurisdiction to order the witness to appear before the IG and to produce evidence, if so ordered, or to give testimony concerning the matter in question. However, the Act does not abridge an individual's rights under the Fifth Amendment to the United States Constitution.<sup>12</sup>

#### Violations

The Act provides that the IG may make a report or forward a complaint related to a possible violation of any state, federal, or local law or rule, regulation, or policy and must notify the appropriate civil, criminal, or administrative agencies charged with enforcement of the violation. In the case of a possible violation of a rule, regulation, or policy governing a local government employee, the IG is also required to notify the chief administrative officer of the local government for which the employee works. The IG may assist the entity in conducting the investigation after referring the matter to the appropriate entity for fact finding.

#### Remedial Actions

The Act provides that the IG may recommend remedial actions and may provide prevention and training services to local government officials, employees, and any other persons covered by this Act. Also, the IG may follow up to determine whether recommended remedial actions have been taken.

#### Cooperation With Other Agencies and Collective Bargaining

This Act requires the IG to establish policies and procedures for investigations and to monitor the costs of investigations undertaken. In addition, the IG must cooperate with other governmental agencies to recover such costs from other entities involved in willful misconduct in regard to local government funds.

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<sup>12</sup> The Fifth Amendment to the United States Constitution provides that "no persons.....shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

The Act's auditing and reporting provisions do not apply to collective bargaining agreements. Also, the Act states that these provisions do not abridge an employee's constitutional right to collective bargaining.

### ***Reports***

Under this Act, the IG is required to publish and deliver finalized reports and recommendations to any affected local government and to the offices represented on the IG selection committee (selection committee).

Notwithstanding any other provision of this Act, whenever the IG determines that it is appropriate to publish and deliver a report or recommendation that contains findings as to the person or entity that is the subject of the report or the person or entity that is the subject of the recommendation, the IG must provide the affected person or entity with a copy of the report or recommendation. That person or entity will then have 15 working days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized, and a timely submitted written explanation or rebuttal must be attached to the finalized report or recommendation. However, this reporting provision does not apply when the IG, in conjunction with the State Attorney or the United States Attorney for the Southern District of Florida, determines that supplying the affected person or entity with such report will jeopardize a pending criminal investigation.

### ***Qualifications and Selection Process***

#### Qualifications

The Act requires the IG to be a person who has at least 7 years of experience in any one or a combination of the following:

- as a federal, state, or local law enforcement officer or official;
- as a federal or state court judge;
- as a federal, state, or local government attorney or private attorney with experience in investigating fraud, corruption, and violations of law;
- as an IG, certified public accountant, or internal auditor;
- as a person with progressive supervisory and managerial experience in an investigative public agency similar to an IG's office;
- as a person who has managed and completed complex investigations involving allegations of fraud, theft, deception, or conspiracy;
- as a person who has demonstrated the ability to work with local, state, and federal law enforcement agencies and the judiciary; and
- as a person who has a four-year degree from an accredited institution of higher learning.

A candidate for IG must also have experience in the management of private business or a public entity or subdivision thereof. Also, the Act provides that a highly qualified candidate for IG is required to have audit-related skills or hold one or more of the following professional certifications at the time of selection:

- Certified Inspector General (CIG);
- Certified Inspector General Investigator (CIGI);
- Certified Inspector General Auditor (CIGA);
- Certified Public Accountant (CPA);
- Certified Internal Auditor (CIA); or

- Certified Fraud Examiner (CFE).

The Act also provides that a candidate for IG must not have been:

- employed by Broward County or any other governmental entity subject to the authority of the Office of IG during the two-year period immediately preceding selection; and
- found guilty of, regardless of adjudication, or entered a plea of nolo contendere to any felony, or misdemeanor involving a breach of public trust, by any court of record in the United States.

### Selection Process

The Act provides for the responsibility in selecting the IG to be vested solely with the selection committee, who will meet periodically to perform their duties required by this act subject to Florida's Government-in-the-Sunshine requirements.<sup>13</sup> The selection committee would be comprised of:

- one person chosen by the Mayor of Broward County;
- one person chosen by the chairperson of the Broward Legislative Delegation;
- one person chosen by the Broward League of Cities;
- the State Attorney for the 17th Judicial Circuit;
- the Public Defender for the 17th Judicial Circuit;
- the President of the Broward County Chiefs of Police Association; and
- the Dean of Nova Southeastern Shepard Broad Law Center.

The Act provides that persons chosen by the Mayor of Broward County, by the chairperson of the Broward Legislative Delegation, and by the Broward League of Cities must not have been a lobbyist, as defined by Broward County ordinance or general law, for two years preceding selection or be an elected or appointed official or employee of any Broward County local government at the time of selection. The Act requires that the chairperson of the selection committee be selected by the members of the selection committee, and that the selection committee must determine its own rules of procedure.

The Act provides that, after thoroughly reviewing qualifications, background information, and personal and professional referrals, the selection committee must notify the Broward County Attorney of its selection. Also, the Broward County Attorney must assist the selected IG as provided by the Act.

### The Role of the Human Resources Division / Background Checks

The Act requires the Human Resources Division of Broward County (Division) to solicit qualified candidates for the position of IG no later than 30 days after the effective date of the Act. In addition, within 120 days after the effective date of this Act, the selection committee is required to select the IG.

The Division is required to provide staff to the selection committee and to advertise the acceptance of résumés for the position of IG as necessary. During this process, all résumés received by the Division must be forwarded to the selection committee for consideration. The Division must identify applicants that have not been found guilty of, regardless of adjudication, or entered a plea of nolo contendere to any felony, or misdemeanor involving a breach of public trust, by any court of record in the United States.

The Act requires that, under penalty of perjury, all applicants must attest to the accuracy of the information requested to qualify for employment. In addition, all IG candidates must disclose all personal and business relationships with Broward County local government.

After the initial selection of the IG, the selection committee may either continue to employ the services of the Division or may use the IG's staff to solicit future IG candidates. In addition, all advertisements for the acceptance of résumés for the IG position must include a salary range commensurate with public officials of similar experience and expertise.

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<sup>13</sup> Chapters 119 and 286, F.S.

### Term of Service

The IG's service term is set at four years. At least six months prior to the end of each contract term, the selection committee is required to determine whether or not to renew the IG's contract for an additional four-year term and must notify the IG of its decision.

If the selection committee elects not to renew the IG's contract, the selection committee is required to convene promptly, as necessary, to solicit candidates in order to select a new IG as provided by this Act. During this process, the incumbent IG may submit his or her name as a candidate to be considered for selection, and the incumbent IG must serve until a successor is selected and assumes office.

### Vacancies

The Act provides that if there is an IG vacancy, the chairperson of the selection committee may appoint a member of the Office as interim IG. This appointment must take place within 10 days after the vacancy occurs until such time as a successor IG is selected and assumes office. A successor IG must be selected in the same manner as the initial selection, except for the following specific time constraints:

- solicitation for qualified candidates for selection should be published within 20 days, but must be published no later than 40 days, after the date the vacancy occurs; and
- the selection committee must in good faith endeavor to convene and select an IG within 90 days after the date the vacancy occurs.

### Employment Contract

The Act requires the selection committee, with assistance from the Broward County Attorney, to negotiate an employment contract with the IG that is substantially consistent with the terms included in contracts of other contractual employees of Broward County. Also, the IG must be paid at a rate commensurate with public officials of similar experience and expertise.

The Act also requires that, before the selection committee approves a contract for the IG, a public hearing on the contract must be scheduled by the Board of County Commissioners of Broward County. This contract must cover the four-year term, subject to the removal provisions described in the Act. The contract must also include a provision that voids the contract if the Office ceases to exist, and a provision requiring the selection committee to provide notice of its decision to renew or not to renew the contract at least six months prior to the termination of the contract.

The Act requires the contract to provide that the IG may not represent a political party, be on any executive committee of a political party, or seek public office during his or her term of service or for four years after the end of the term of service. This limitation does not include seeking selection as IG for a subsequent term. Further, the contract provides that the IG may not be a lobbyist, as defined in Broward County ordinances or general law, for two years after the end of the service term.

The Act provides that the Office and the selection committee are considered part of the Charter Government of Broward County and, except as provided in this Act, will be subject to all regularly enacted ordinances, rules, regulations, policies, and procedures of Broward County.

### ***Removal Procedures***

Under this Act, the IG may only be removed for cause based upon specified charges of the following:

- neglect of duty;
- abuse of power or authority;
- discrimination; or
- ethical misconduct.



The Act provides that the removal process must be initiated at a duly noticed public hearing of the selection committee. Once at the public hearing, an affirmative vote of at least four members of the selection committee is required to present the IG with the charges and to proceed to final public hearings.

Following the public hearing, the selection committee must transmit a copy of the charges to the IG at least 60 days before all final public hearings, which must be convened by the selection committee. Before any votes are taken for purposes of his or her removal at the final public hearings, the IG may be heard in person and by counsel.

Under this Act, the IG may only be removed by affirmative vote of a majority of the members of the selection committee. A record of the proceedings, along with the charges and findings, must be filed with the Broward County Administrator. However, the Act also provides for removal without a public hearing if the IG is convicted of or enters a plea of guilty or nolo contendere to a state or federal felony.

### ***Physical Facilities and Staff***

The Act provides for Broward County to provide the Office with appropriately located office space and sufficient physical facilities, along with necessary office supplies, equipment, and furnishings, to enable the IG to perform his or her functions.

The Act also provides that the IG will have the power to appoint, employ, and remove such assistants, employees, and personnel, and establish personnel procedures as deemed necessary for the efficient and effective administration of the Office's activities.

### ***Funding***

Under the Act, each Broward County local government with tax levying authority would be responsible for the funding of the Office.

#### Budgeting

Also, pursuant to its annual budget process, the Board of County Commissioners of Broward County (Board) is required to provide sufficient financial support for the Office to fulfill its duties as set forth in this Act. In order to ensure adequate funding for the prompt establishment of the Office, the Board must approve an amount equal to \$200,000 to fund all IG-related operations for the remainder of the 2010–11 local fiscal year.

The Act requires the IG to deliver a budget to the Board in a timely manner. The budget must include a reasonable estimate of the Office's operating and capital expenditures, its revenues, and the projected IG contract fee revenue, among the items to be collected from Broward County and any other participating local governments and public agencies.

The Act provides that the IG's budget may not be implemented until a public hearing is held by the Board. Also, the IG is required to establish a fiscal year that coincides with Broward County's fiscal year. These budget guidelines do not prohibit the IG from transmitting supplemental budget requests to the Board. Supplemental budget requests must be scheduled for a public hearing and, if approved by the Board, will result in amendments to the county budget.

#### Determining Local Governments' Share of Funding

To fund the Office of Inspector General, the Act provides that each local government's share of the Inspector General's budget as set forth in the Act must be calculated based on its representative share of the countywide total of taxes levied by all local governments in Broward County. Local governments that do not levy taxes are not responsible for funding the Office.

#### Funding Sources

In order to defray the costs of reviews, audits, inspections, and investigations by the IG, any local government may enact, by ordinance or resolution, the imposition of an IG contract fee, which must not exceed 0.25 percent of the contract price added to each local government contract.

The contract fee would not apply to the following local government contracts, grants, or agreements:

- contracts for legal services;
- auditing contracts;
- grants funded by federal, state, or local government; and
- interlocal agreements.

Also, the local government may authorize the inclusion of the IG contract fee in any contract to which the local government is a party.

The contract fee provisions do not limit the power of the IG to perform audits, inspections, reviews, and investigations on all local government contracts, including, but not limited to, contracts specifically exempted from the IG contract fee, under this Act.

The Act provides that the Charter Government of Broward County is required to provide a procedure in which each local government must remit the collected contract fees to fund the Office. Full payment from each local government must be made within 90 days after the enactment of Broward County's budget or any amendment to Broward County's budget representing funding for the Office.

The IG contract fee may only be used to fund the Office and must be held in a separate account by Broward County to be used only by the IG in future years, and may not be used for any other purpose.

### ***Code of Ethics and Ordinance Violations***

This Act requires all Broward County local government entities to establish, by ordinance or binding resolution, a code of ethics regulating the behavior of elected and appointed officials and employees of that local government. As part of this framework, Broward County and each municipality within the county must adopt a code of ethics that is binding on each dependent district.

To assist local governments in developing ethics policies, the Act requires the IG to develop a model policy that must be provided to local governments by May 1, 2011. Any local government that has not established a code of ethics by November 1, 2011, must be bound by the model policy until the time of such adoption.

### ***Future Amendment and Conflict***

This bill provides that the Act may be amended by Special Act of the Legislature, which could allow Broward County to amend this Act without the need for a countywide referendum.

Pursuant to Article VIII, s. 1(g) of the Florida Constitution,<sup>14</sup> the Act states that any charter provision or ordinance of the Charter Government of Broward County that creates an Office of Inspector General, or officer or employees or agents that function substantially the same as the Office of Inspector General, as provided in this Act, is deemed inconsistent with the Act.

Also, if Broward County creates any such office or officers, employees, or agents, these will be determined to be part of the Office of Inspector General as created by this Act, and will be subject to the direction of the IG created by this Act along with all related duties, responsibilities, and

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<sup>14</sup> This section provides that "counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances."

requirements. However, these provisions do not apply to the Office of the County Auditor as provided in Section 4.01 of the Charter of Broward County as it exists on the effective date of this Act.

### ***Referendum on Continuation of the Office of Inspector General***

The Board is required to schedule a referendum for the continuation of the Office in conjunction with the general election of November 2016, and in accordance with the provisions of law relating to elections currently in force.

This Act will expire on the date after the general election of November 2016 unless the ballot question, as provided in this Act, is approved by the voters in a November 2016 general election referendum.

### ***Referendum for Approval of Office, Ballot Statement, and Effective Date***

The Board is required to schedule a referendum in conjunction with the general election of November 2010 in accordance with the provisions of law relating to elections currently in force.

This Act will only take effect upon approval by a majority vote of the qualified electors in a Broward County referendum, which would be scheduled in conjunction with the November 2010 general election.

The bill provides that the ballot statement will take effect upon this Act becoming a law.

#### **B. SECTION DIRECTORY:**

Section 1. Provides a short title: the "Broward County Office of Inspector General Act."

Section 2. Provides definitions.

Section 3. Creates and establishes the Broward County Office of Inspector General; provides for functions, authority, and powers; provides for reports; provides for qualifications and selection; provides removal procedures; provides for physical facilities and staff; provides for funding.

Section 4. Provides for a code of ethics and ordinance violations guidelines.

Section 5. Provides that the Act may be amended by Special Act of the Legislature.

Section 6. Provides for conflict guidelines.

Section 7. Provides for a referendum on the continuation of the Office of Inspector General.

Section 8. Provides for a ballot statement; provides for a referendum on the creation of the Office of Inspector General.

Section 9. Provides that the Act can only take effect upon approval by referendum.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? Not applicable.

WHERE? Not applicable.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? November 2, 2010.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, this bill will increase public confidence in local government and provide potential savings for local governments by discouraging the execution of fraudulent or mismanaged contracts.

The Economic Impact Statement also indicates that the provisions of this bill will result in expenditures of \$200,000 for local fiscal year 2010-11. The projected expenditures for local fiscal year 2011-12 have not been determined.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Article VIII, s. 1(g) of the Florida Constitution provides that "counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances."

Since this Special Act will be approved by the electors, this Act will control any inconsistent provisions in the charter or in any ordinance. This bill allows for the creation of any similar positions or offices to be part of and under the direction of the Office of Inspector General created by this Act.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 8, 2010, the Military & Local Affairs Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute.

This amendment clarified the qualifications for the position of Inspector General.

This analysis reflects the amendment adopted by the Military & Local Affairs Policy Committee.